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Follow-up to the recommendations of the Permanent Forum

Information from States on addressing the recommendations of the Permanent Forum on Indigenous Issues

Note by the secretariat

Summary

The present report is a compilation of the responses from States to the questionnaire on action taken or planned to address and implement the recommendations of the Permanent Forum on Indigenous Issues. The questionnaire and the complete responses from States are available on the Permanent Forum website: http://www.un.org/esa/socdev/unpfii/en/session_tenth.html.

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I. Introduction

1. As at 21 February 2011, the Permanent Forum on Indigenous Issues had received written responses to its questionnaire for the tenth session from Bolivia (Plurinational State of), Burkina Faso, Chile, Ecuador, El Salvador, the Niger, Peru, Switzerland and the United States of America. These States also provided overviews on the situation of indigenous peoples in their countries. Recent efforts have been made in Ecuador and Peru to build an intercultural society, and although they reported on other ethnic groups in addition to indigenous peoples, the present report outlines issues relating to indigenous peoples only. The complete written responses from States can be found on the website of the Permanent Forum: http://www.un.org/esa/socdev/unpfii/en/session_tenth.html.

2. Many States outlined their commitment to promoting all citizens and cultures as well as the need to eliminate discrimination against marginalized groups in communities, including indigenous peoples. In most instances, national constitutions contain extensive safeguards to ensure that human rights apply uniformly to all citizens, as in the case of Switzerland. In Ecuador, the rights of indigenous peoples and other nationalities have been recognized in the new Constitution of Ecuador (2008), which acknowledges Ecuador as an intercultural and plurinational State. This recognition is intended to provide a more inclusive approach to all Ecuadorians, building a new form of coexistence based on cultural diversity and harmony with Mother Earth, to achieve *sumak kawsay* or "living well". In this context, the National Assembly of Ecuador designated 19 September as the "Day of Interculturalism and Plurinationalism", in honour of the birthday of the late indigenous leader, Tránsito Amaguaña. In February 2009, the Government of the Plurinational State of Bolivia enacted its new Constitution, which guarantees the full participation of indigenous peoples in the construction of the Plurinational State of Bolivia.

3. The identification of indigenous peoples differs among countries. In Bolivia (Plurinational State of), Chile, Ecuador, El Salvador, Peru and the United States, there are identified indigenous peoples, while the Touaregs of Burkina Faso have never been officially declared indigenous peoples. At the same time, Burkina Faso counts the Touaregs among its population, describing them as belonging to the Berber nomads living in central Sahara and on the borders of the Sahel. According to Burkina Faso, the Berbers are identified as indigenous peoples in Algeria and Morocco. An organization in Burkina Faso called "Tinhinan", which works for the development of nomadic women, has been the voice of the indigenous peoples of Burkina Faso in international forums. Hence, there is recognition of the existence of indigenous peoples in Africa and elsewhere and commitment to promoting and defending their human rights. Switzerland does not have indigenous peoples as defined in pre-colonial societies, although there are minority groups in the country. However, it supports international efforts to protect and promote the rights of indigenous peoples. It its report, the Niger did not specifically refer to indigenous peoples.

4. States reported on recent initiatives to address indigenous peoples' issues. The United States reported President Obama's announcement on 16 December 2010 that the United States had changed its position and was now lending its support to the United Nations Declaration on the Rights of Indigenous Peoples. A more detailed statement regarding the Government's support for the Declaration may be found on

its website.[1] On the same date, at the White House Tribal Nations Conference, the United States Government announced that it had been working to strengthen its relationship with Native American tribes. As a part of its effort, the Government and tribal officials had developed a comprehensive strategy to help meet the challenges facing Native American communities. In July 2010, the Government of Peru established the Vice-Ministry for Intercultural Affairs within the Ministry of Culture, which aims to promote the rights of indigenous peoples in accordance with International Labour Organization (ILO) Convention No. 169 and the Declaration. In October 2010, the First National Indigenous Congress was held in El Salvador. At the opening of the Congress, the President of El Salvador, Mauricio Funes Cartagena, apologized to the nation's indigenous peoples for the harm they had suffered over the past five centuries and stated that from that day forward he would officially terminate the historical denial of the diversity of peoples and acknowledge El Salvador to be a multi-ethnic and multicultural society.

II. Response to recommendations from the ninth session of the Permanent Forum

5. One of the recommendations from the ninth session was for the United States and Canada to endorse the United Nations Declaration on the Rights of Indigenous Peoples. In 2010, both States changed their previous positions and they now support the Declaration.[2] The United States also reported that many of the priorities identified by Native American tribal leaders at the White House Tribal Nations Conference in December 2010 corresponded to recommendations made by the Permanent Forum at its ninth and previous sessions.

6. The Permanent Forum recommended that States and the United Nations system should provide political, institutional and financial assistance, in accordance with article 42 of the Declaration, to support the efforts of indigenous peoples so that they could consolidate their own development models and concepts of living well.[3] At the ninth session, Burkina Faso participated in the Forum for the first time, and it reported that that was an indication of the country's interest in the promotion and protection of indigenous peoples' rights. It also reported that it had laws providing for local authorities (municipalities and regions) to undertake any action to promote economic, social, cultural and environmental rights and to participate in regional planning. Those laws were for all citizens of Burkina Faso and thus applied equally to individuals who considered themselves indigenous peoples.

7. In Peru, the Government provides political, institutional and financial support to indigenous peoples, in accordance with article 42 of the Declaration, so that they can build their own development models and concepts and practices of living well. In 2009 and 2010, the Government conducted a series of macro-regional events with national and regional indigenous organizations to identify priority issues, project ideas and activities (such as land titling) to achieve development with identity for indigenous peoples. It also collected a series of contributions to be considered as the main input for a proposed national policy on intercultural and social inclusion. It was expected that indigenous peoples would participate in the development of the

[1] See http://www.state.gov/documents/organization/153223.pdf.

[2] See E/2010/43-E/C.19/2010/15, para. 16.

[3] Ibid., para. 11.

policy and that such restructuring would elevate indigenous peoples' issues to the highest political level and increase the capacity of Government action. In the mining and energy sector, the Government approved an emergency decree in March 2010 so that regional Governments received royalties and fees for rural and indigenous communities in their jurisdiction. Since 2006, the Ministry of Energy and Mining had been promoting the establishment of a fund called "The mining programme for solidarity with the people" so that companies, in coordination with indigenous peoples, could create projects for local development in the quest to eradicate poverty.

8. The Permanent Forum recommended that States, United Nations agencies and financial institutions and donors should promote and support development processes led and carried out by indigenous women's organizations, in accordance with articles 3 and 32 of the Declaration, including leadership and capacity-building schools and the creation of funds managed by indigenous women themselves.[4] In Peru, the Ministry of Intercultural Affairs has expressed interest in carrying out similar joint projects with indigenous peoples' organizations.

9. The Permanent Forum recommended that States should include ethnic identification in vital statistics and health records, allocate more funding for intercultural services that ensure indigenous women's access to health care, including emergency obstetric care, voluntary family planning and skilled attendants at delivery, and strengthen the role of traditional midwives.[5] The Ministry of Health in Peru has implemented policies for the expansion of intercultural health services for women and children in the Amazon region. In addition, maternal and neonatal intervention health services have been developed in other indigenous peoples' regions. In El Salvador, the Ministry of Health is implementing an outreach health coverage programme for indigenous peoples and other vulnerable groups. It also proposes health interventions at the community level to address the social determinants of health and promote disease prevention measures.

10. The recommendation that States with indigenous peoples should review their legislation, policies and programmes in accordance with the Declaration and the Programme of Action for the Second International Decade of the World's Indigenous People was also addressed by some States.[6] In Peru, the Vice-Ministry of Intercultural Affairs will conduct a review of Peru's national norms to propose legal reforms that include an intercultural approach in line with international commitments. Both the Declaration and ILO Convention No. 169 are incorporated into the new constitution of the Plurinational State of Bolivia and into other legal provisions on the rights of indigenous peoples.

11. At its ninth session, the Permanent Forum issued specific recommendations to the Government of the Plurinational State of Bolivia during its in-depth dialogue on the situation of indigenous peoples in the Chaco region. This dialogue was based on the report of the mission of the Permanent Forum to the Plurinational State of Bolivia (E/C.19/2010/6) and on the response of the Bolivian Government (see E/C.19/2010/12/Add.1). Three main recommendations were addressed in the written response by the Plurinational State of Bolivia. These recommendations referred to the implementation of constitutional provisions regarding the liberation of

[4] Ibid., para. 33.
[5] Ibid., para. 166.
[6] Ibid., para. 47.

indigenous peoples living under forced labour and servitude; reforming land processes on the grounds of servitude; and the implementation of specific policies in the areas of housing and health in indigenous communities that had been subjected to servitude.[7]

12. The Plurinational State of Bolivia reported that public policy on intercultural family and community health had been strengthened so that health officials and medical staff had been able to tour the Chaco region and offer medical care to 13,271 indigenous Guaraní and Wenayek peoples. In addition, social subsidies had been paid to pregnant women and women with children under 2 years of age, and to the elderly. The Ombudsman had disseminated information on laws protecting indigenous peoples in the Chaco region, collected reports and dealt with violations of peoples' rights. In 2010, the Ministry of Labour and Social Welfare had implemented two national programmes to eradicate child labour and forced labour in the Chaco region. The programmes included inspections of farms and the development of management programmes for farms that required further labour inspections. They also included the development of training programmes on labour and social rights, the creation of labour unions and the establishment of a committee comprising employers, workers and Government officials to implement guidelines on labour and social standards in favour of the indigenous peoples living in the Chaco region.

13. In compliance with the provisions of the Constitution on the release of captive families and resolutions for land reform, the Government of the Plurinational State of Bolivia has implemented measures, through the National Agrarian Tribunal, and has taken back abandoned lands where the previous landowners had held indigenous peoples in servitude. These lands will be transferred to the indigenous peoples as communal lands. The Government, in cooperation with the Guaraní peoples, has carried out a programme to provide birth certificates and identity cards, so that the Guaranís can benefit from the Government's social services programmes.

III. Efforts of Governments regarding indigenous peoples and the Millennium Development Goals

14. The United States reported that it had undertaken various efforts regarding indigenous peoples and the Millennium Development Goals. The Obama administration had prioritized funding for Indian housing and education, which supported both the eradication of extreme poverty and hunger and the achievement of universal primary education. The United States had also invested significant resources in managing wildfires and improving habitats, addressing contamination and degradation, and supporting renewable energy resources, all of which contribute to realizing environmental sustainability as part of the Goals.

15. Ecuador's implementation of the Goals is outlined in a document entitled "Millennium Development Goals Status Report 2008: Indigenous Nationalities and Peoples of Ecuador". The objectives are set out in the Organic Law on Food Sovereignty, which promotes safe and culturally appropriate food for communities, peoples and nations. The Organic Law on Higher Education guarantees free public education, especially for indigenous peoples. It also includes curriculum reform and

[7] See E/2010/43-E/C.19/2010/15, paras. 60, 61 and 63.

scholarship programmes for indigenous peoples. A strong campaign against sexism has also been implemented, with a special emphasis on indigenous peoples, which is articulated under the Plurinational Plan to Eliminate Racial Discrimination and Ethnic and Cultural Exclusion.

16. In Burkina Faso, the implementation of the Millennium Development Goals applies to all peoples without discrimination. However, in order to pursue a balanced development of all regions, the Government has made extra efforts in particular regions that experience unpredictable rainfall, in order to improve health, education and access to drinking water to the peoples residing in those regions.

17. The Government of Peru reported that in the year 2000, it had made a commitment to meet the objectives of the Millennium Development Goals and had introduced policies and programmes to raise the living standards of the poorer sectors of the country, which includes indigenous peoples. The 2010 report entitled "The State of Indigenous Children in Peru" prepared by the United Nations Children's Fund (UNICEF) and the National Institute of Statistics and Informatics states that health insurance coverage has increased for indigenous peoples and that there is a higher proportion of indigenous children and adolescents covered by health insurance than non-indigenous children. With respect to safe motherhood in indigenous communities, the Ministry of Health has implemented delivery care and cultural adaptation in health facilities, which has led to a reduction in maternal mortality.

18. The Government of Chile, in partnership with the United Nations system in Chile, has developed a programme for strengthening national capacities for the prevention and management of intercultural conflicts. One of the key elements outlined in the programme strategy is to measure the progress of the Millennium Development Goals in regard to indigenous peoples. The Goals have been part of the development strategy adopted by Chile to improve the quality of life and overcome poverty, inequality and various forms of discrimination and exclusion. The Government has prepared two national reports on achieving the Goals, the first of which considers Chile's proposed targets in economic growth and the development of social programmes. The second report, prepared in 2008, considers achievements and provides a regional analysis that reveals the regional inequalities in the achievement of the Goals. The Government of Chile and the United Nations system are conducting a study to determine the status of implementation of the Goals with respect to indigenous peoples and to forecast whether it is feasible to achieve them by 2015, as well as decrease the implementation gaps between indigenous and non-indigenous peoples.

19. Switzerland supports international efforts to protect and promote the rights of indigenous peoples, which are set out in its policy paper "Swiss action for indigenous peoples" (1998) published by the Federal Department of Foreign Affairs. Under the Department, the mandate of the Swiss Agency for Development and Cooperation is to fight against poverty and promote human rights for indigenous peoples. The activities supporting indigenous peoples include capacity-building, participation in decision-making and social policies, and access to public services such as education and health care and to economic and natural resources. Switzerland supports projects for indigenous peoples within the framework of its country programmes in Bangladesh, the Plurinational State of Bolivia, the Sahel and others places, as well as the activities undertaken by such Geneva-based

non-governmental organizations as doCip, which provides training and supports indigenous peoples' active participation in United Nations meetings. In its report, Switzerland provided examples of programmes for indigenous peoples in Bangladesh and the Plurinational State of Bolivia.

20. The Government of the Plurinational State of Bolivia implements the Millennium Development Goals through its national development plan, which aims to overcome the exclusion of indigenous peoples, reduce inequalities and eradicate extreme poverty and hunger. In the area of education, measures were introduced to grant incentives to indigenous students to remain in school, in order to reduce dropout rates and absenteeism. These measures are having an impact in the rural areas. In the fight against poverty, the Office of the Treasury transferred funds and resources, to be administered by the Council of Indigenous Organizations, for use in projects to strengthen various indigenous communities and facilitate productive enterprises aimed at eradicating poverty.

21. In order to address the implementation of the Goals, the Government of El Salvador stated that it was necessary to first address and find a resolution to the past treatment of indigenous peoples and the actions of previous Governments. This included the recognition of indigenous peoples so that they could be included in social policies that benefit them and the establishment of the First National Indigenous Congress, which held a series of meetings in October 2010 with organizations and indigenous leaders at which the President formally apologized to indigenous peoples for past policies of neglect perpetuated by previous Governments.

IV. Government responses to economic and social development, the environment and free, prior and informed consent

22. The United States is engaged in numerous initiatives to address the concerns raised by Native American leaders, including the areas addressed in the Permanent Forum's recommendations. Many involve the continuation of activities highlighted in the White House Tribal Nations Conference progress report released in June 2010. Decentralization laws in Burkina Faso enshrine the full transfer of powers to regions and municipalities in the areas of economic and social development and the environment. The Government also supports various local authorities in implementing their development plans by transferring financial and human resources. As a result, development choices come from the people themselves, including indigenous peoples.

Economic and social development

23. The Obama administration has taken numerous steps, in coordination with the affected tribes, to promote the economic and social well-being of indigenous peoples in the United States in the areas of employment and training, housing, education, access to high-speed broadband and infrastructure development. Full details of these initiatives may be found in the report by the United States. In Ecuador, the law on food sovereignty favours indigenous peoples and aims to strengthen healthy food production. In El Salvador, the Ministry of Health is implementing two projects to improve the health of vulnerable peoples, which

includes indigenous peoples. The first project aims to improve access to the health services' tuberculosis programme and the second is the outreach health services coverage programme. Full details of these initiatives may be found in the report by El Salvador.

24. The Niger has developed, implemented and revised a strategy of accelerated development for poverty reduction, with the aim of improving economic and social development and eliminating extreme hunger and poverty. A number of sectoral policies were developed; they include the rural development strategy, the national education policy, the national policy on youth and the national gender policy.

25. In the Plurinational State of Bolivia, the Government provides development funds and resources for indigenous and peasant communities which are managed by a board composed of indigenous peoples' organizations and peasant and Afro-Bolivian communities. All these communities, whether local, regional or national, can access the funds by submitting project proposals in the areas of production (agriculture, handicrafts, community tourism, fodder, seeds, land reclamation and small-scale irrigation); capacity-building; and social projects that aim to revitalize and protect ancestral knowledge. There are also additional development programmes for indigenous peoples funded by various municipalities.

26. In Peru, the Vice-Ministry of Intercultural Affairs develops policies, programmes and projects that promote the recognition of the right to cultural diversity, citizenship, social inclusion and sustainable development. There are plans under way to develop, with members of civil society organizations, academics and representatives of indigenous peoples, a national policy on intercultural and social inclusion, which will serve as the focus of a public policy that is binding on all Government sectors. In addition, the National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples identifies, proposes, develops, participates and manages programmes and projects for development with identity for indigenous peoples. It also promotes capacity-building for indigenous peoples through training and organizes and oversees the implementation of projects and programmes for the development of indigenous and Afro-Peruvian peoples and for the realization of intercultural and social inclusion, in order to improve the quality of life of indigenous peoples.

27. In Chile, there are programmes at the national level for indigenous peoples that include a fund for indigenous lands and waters; an indigenous development fund; an origins programme (with the Inter-American Development Bank); and indigenous programmes at the National Institute for Agricultural Development, which supports indigenous farmers. In November 2006, the Government of Chile and the Inter-American Development Bank designed the origins programme to improve the quality of life of the rural communities of the Aymara, Atacameño, Quechua and Mapuche peoples. This project is due for completion in 2011.

28. Switzerland has conducted interventions over several years to strengthen the capacity of public institutions such as FORDECAPI (Programme to Strengthen Institutional Capacities) in the Plurinational State of Bolivia, to improve the rights of the Guaraní peoples. The project funds three regional offices with the objective of enabling Guaraní peoples who have lived under forced labour and servitude to gain full access to land titles; developing policies and laws that prohibit forced labour; providing access to justice programmes; and negotiating salaries for Guaraní workers.

Environment

29. The United States is committed to protecting the environment and recognizes that many indigenous peoples depend on a healthy environment for subsistence fishing, hunting and gathering. While there is far more that needs to be done, the United States is taking many steps to coordinate with the affected tribes and address environmental challenges in Indian country and beyond. Specific examples include initiatives such as "Wildfire management and improvement of habitat"; "Addressing contamination and degradation"; and "Supporting renewable energy resources and other projects". Full details of these initiatives may be found in the report by the United States. In Ecuador, there have been meetings with indigenous peoples' organizations on land management and collective rights as well as workshops to raise awareness of the meaning of the plurinational state, interculturalism and the "plan of living well", in accordance with national and international legal instruments. The "Life plan" is another instrument that was developed with the direct participation of indigenous peoples in order to build the Plurinational and Intercultural State of Ecuador.

30. As stated above, the decentralization laws in Burkina Faso enshrine the full transfer of powers to regions and municipalities in the areas of economic and social development and the environment. In the Niger, the development and implementation of national policies on the sustainability of the environment has contributed to protecting flora and fauna and safeguarding endangered animals and plant species. El Salvador reported that, in 2010, the municipality of Nahuizalco enacted an ordinance to protect natural resources. The regulation seeks to promote the development of indigenous communities in Nahuizalco by protecting and preserving their cultures, their lands and territories, and both renewable and non-renewable natural resources. In Chile, environmental laws require environmental impact statements for projects or activities in areas where there has been resettlement of communities or significant changes to living systems and customs and for activities located near towns or protected areas, conservation sites and anthropological and archaeological sites. There is a duty to undertake environmental impact assessments so that indigenous peoples and their lands are protected against any adverse development.

31. A central objective of the Government of the Plurinational State of Bolivia is the management of the environment, which has been emphasized in public policy. In November 2010, the Plurinational Assembly passed a law on the "Rights of Mother Earth". This law incorporates the principles of harmony, common good, the regeneration of Mother Earth, and respect for and the defence of the rights of Mother Earth as the basis for living in harmony with nature. During the sixteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Cancun, Mexico, in December 2010, the Plurinational State of Bolivia defended the Peoples' Agreement,[8] an outcome document of the Peoples' World Conference on Climate Change and the Rights of Mother Earth, held in Cochabamba, Plurinational State of Bolivia, in April 2010. This document outlines the provisions for reducing greenhouse gas emissions and the rights of indigenous peoples. The Plurinational State of Bolivia has also implemented policies on access to safe water, sanitation, micro-irrigation and

[8] See A/64/777.

irrigation in rural areas for indigenous peoples. Its Constitution confirms access to water and sanitation as a human right and provides that water should not be privatized or subjected to licensing and registration. In July 2010, following the initiative of the Plurinational State of Bolivia, the General Assembly adopted an historical resolution on the human right to water and sanitation (resolution 64/292). In January 2011, following extensive consultations, the Ministry of Environment and Water in the Plurinational State of Bolivia presented a draft water act to the Plurinational Assembly.

32. In Peru, there is a National Service for Natural Protection Areas, which is an agency of the Ministry of the Environment responsible for directing and establishing the technical and administrative criteria for the conservation of protected areas and the maintenance of biodiversity. Peru has also made progress in the implementation of ILO Convention No. 169 in terms of procedures for consultation on the legal and technical aspects of creating and administering communal reserves. These communal reserves are natural reserves for indigenous peoples who conserve and use natural resources in a sustainable manner. The Ministry of the Environment has also approved the development of national forest conservation and a proposal for mitigation of and adaptation to climate change in areas where indigenous peoples reside.

Free, prior and informed consent

33. The efforts of the United States to strengthen the government-to-government relationship with tribes is crucial to enable Government agencies to have the necessary input from tribal leaders before they can take actions that have a significant impact on tribes. It is for this reason that President Obama signed a Presidential Memorandum in 2009[9] on the implementation of Executive Order 13175 — Consultation and Coordination with Indian Tribal Governments and directed all federal agencies to develop detailed plans of action to implement the Executive Order.

34. In lending its support to the United Nations Declaration on the Rights of Indigenous Peoples, the United States recognized the significance of the Declaration's provisions on free, prior and informed consent, which the United States understands as a call for a process of meaningful consultation with tribal leaders before the actions addressed in those consultations are taken. The United States intends to continue to consult and cooperate in good faith with federally recognized tribes and, as applicable, Native Hawaiians, on policies that directly and substantially affect them and to improve cooperation and consultation processes, in accordance with United States federal law and President Obama's call for improved implementation of Executive Order 13175. Further details are provided in the report of the United States.

35. In Ecuador, free, prior and informed consent is taken into account in public policies on intercultural communication and in negotiations on access to radio frequencies for indigenous peoples. In Burkina Faso, the issue of free, prior and informed consent is covered by the provisions of an act on local government, which

[9] See http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president.

was adopted in December 2004. This act establishes the right of local governments to freely administer and manage their own affairs in order to promote grass-roots development and strengthen local governance.

36. In 2010, at the request of the Government of the Plurinational State of Bolivia, Switzerland coordinated the first consultation process at the national level, in accordance with ILO Convention No. 169, on the development of the law and justice. The consultation process was conducted using a methodology developed with the assistance of the United Nations High Commissioner for Human Rights in the Plurinational State of Bolivia. Switzerland intends to present the process of consultation and methods used to the tenth session of the Permanent Forum. As part of the process, the Government of the Plurinational State of Bolivia enacted legislation on implementing the right to consultation in accordance with the State Constitution, the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169. The Government has an obligation to conduct a consultation process on legislative or administrative measures pertaining to indigenous peoples.

37. Article 34 of Chile's Indigenous Act establishes the general rules of participation and consultation where Government departments and State organizations must consider the views of indigenous peoples when dealing with matters relating to indigenous peoples' issues. In order to comply with its obligations under articles 6 and 7 of ILO Convention No. 169, Chile issued Decree No. 124 regulating article 34 of the Indigenous Act. It states that indigenous peoples are to be consulted through their traditional organizations, communities and associations. The bodies responsible for holding consultations include ministries, municipalities, regional governors, armed forces and public order and security forces.

38. In Peru, the Government is obliged to guarantee the rights of indigenous peoples in accordance with ILO Convention No. 169 and the Declaration. These frameworks not only recognize the rights of indigenous peoples but also the right to consultation and the right to participate broadly in the consultation process. In order to promote and monitor the ongoing dialogue process with indigenous peoples, the Congress of Peru approved a law in May 2010 that establishes the right of indigenous peoples to be consulted on legislative and administrative measures. In addition, the Ministry of Energy and Mines developed, with the technical assistance of ILO, a draft regulation for consultation with indigenous peoples on mining and energy. It sets out the framework for consultation with indigenous peoples when developing mining and energy activities that directly affect them.

39. In El Salvador, the Social Investment Fund for Local Development is designed to encourage municipalities to strengthen and promote decentralization and regionalization. It also incorporates an indigenous peoples' component that identifies the influences and impact on indigenous peoples in the municipalities. In order to ensure that consultations are conducted with indigenous peoples during the project implementation, an appropriate framework that promotes the inclusion of indigenous peoples and other groups in every stage of the project is being considered. Similarly, the process will include an action plan with measures to ensure that indigenous peoples obtain adequate social and economic benefits as well as measures to strengthen the capacity of the agencies implementing the project. The Ministry of Social Inclusion, in keeping with its mandate to eliminate discrimination

and promote social inclusion and the capacity-building of indigenous peoples, has formed three working groups to respond in a positive way to realizing the rights of indigenous peoples. Within this framework, a task force on indigenous peoples has been mandated to establish a dialogue with indigenous leaders and indigenous organizations to ensure that all activities, programmes and policies have the approval of the indigenous peoples themselves.

V. Obstacles encountered by Governments in implementing the recommendations of the Permanent Forum

40. The United States changed its position on the Declaration, which has led to an increased awareness among federal agencies about the work of the United Nations in the area of indigenous peoples. For this reason, the United States believes that it is premature at this point to comment on obstacles. The Government of Ecuador reported that it was difficult to support indigenous peoples' demands and, while there had been established dialogues with indigenous peoples, obstacles remained because there were divisions within the indigenous peoples' movement. In addition, there was no consistency between the indigenous leadership and local leaders, largely because of the lack of knowledge of Government projects and processes. Those divergent positions had made it difficult to fully implement the recommendations of the Permanent Forum. With respect to the Plurinational State of Bolivia, the difficulties in implementing the Permanent Forum's recommendations were often the result of resistance from certain sectors of society that tended to be conservative and thus hindered public policies that could benefit indigenous peoples. The Government of Chile reported that there were important opportunities to improve policies on indigenous peoples and that there was overwhelming consensus that institutional frameworks must be improved. In addition, Chile faced institutional constraints in developing programmes and benefits for indigenous peoples' development. For example, there were all kinds of institutional barriers that prevented or hindered indigenous peoples' access to benefits and programmes offered by various Government departments and ministries. Some of those issues were being addressed; the details were outlined in the report by Chile.

41. The Government of Peru reported that it had specific rules for indigenous peoples residing in isolation and that it recognized their right to communal reserves, to maintain their isolation and to protect the rights, habitat and conditions that ensured their existence and integrity as peoples. At the same time, the dispersion and remoteness of some indigenous peoples meant that there was limited State presence to meet their needs. In addition, there was a need to find specific formulas to implement the Permanent Forum's recommendations. The establishment of the Vice-Ministry of Intercultural Affairs might help to improve State actions. On the other hand, not all resources and capabilities had been fully developed following the decentralization process initiated some years earlier whereby many central Government powers had been transferred to regional and local governments. That factor might limit the implementation of the recommendations. However, it was important to note that the Government was aware of those limitations.

VI. Factors that facilitate the implementation by Governments of the recommendations of the Permanent Forum

42. As previously stated, the United States has changed its position on the Declaration, which has increased awareness among federal agencies about the work of the United Nations in the area of indigenous peoples. The United States thus considered that it was premature at this point to comment on the above question. Burkina Faso noted that the implementation of its decentralization law and regulatory measures to promote and protect the human rights of all social groups, including those who claimed to be indigenous peoples, was a factor that facilitated the implementation of the Permanent Forum's recommendations. The Niger, while not referring specifically to indigenous peoples, stated that it was important to have political stability, political engagement and national commitment in implementing the recommendations.

43. According to the Government of El Salvador, in order to implement the recommendations, it was necessary to first address and find a resolution to the treatment of indigenous peoples by previous Governments. In July 2010, the Secretary of Social Inclusion signed an agreement with the National Registry of Natural Resources, the Corporation of Municipalities of the Republic of El Salvador and the Attorney General's Office, to grant all indigenous peoples the right to regain their indigenous names and identity, which had been denied them under repressive policies introduced in 1932.

44. The Government of Chile is committed to promoting cultural diversity and indigenous cultures and identities; revising and improving existing methods of issuing land grants; restructuring existing institutions; and continuing to build effective consultation processes that include indigenous peoples' participation. In September 2010, a round-table meeting was convened by the President to establish and expand dialogue with indigenous peoples and their organizations in order to address concerns and restore trust between the Government and indigenous peoples.

45. The Government of Ecuador reported that strengthening institutions was the key factor in facilitating the Government's implementation of the Permanent Forum's recommendations. Part of that process included bridging the gap between civil society and the State; working closely with indigenous peoples to strengthen their organizations; and supporting the formulation and implementation of plans and proposals for organizational and community strength, with an emphasis on interculturalism, plurinationality and non-discrimination. It was important to establish inter-ministerial committees as intergovernmental forums to collect and respond to proposals from indigenous peoples.

46. The Government of Peru reported that one factor facilitating the implementation of the Permanent Forum's recommendations was promoting the visibility of indigenous peoples in the national agenda and in the various branches of Government. That required special attention and would remain a priority for 2011. Another factor was the creation of an executive branch within the Vice-Ministry of Intercultural Affairs, which had resulted in indigenous peoples' issues being accorded the same level of importance as other State priorities. Further, the issue of indigenous peoples' right to consultation had been recognized in court cases. Another important factor was the Congress of Peru having established legislative bodies devoted exclusively to indigenous peoples' issues, including the

Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology. Those bodies adopted policy frameworks that tracked and evaluated standards related to the rights of indigenous peoples, environmental preservation and the conservation of natural resources.

47. In 2007, President Evo Morales of the Plurinational State of Bolivia addressed the seventh session of the Permanent Forum, which helped to increase the promotion and implementation of the Declaration. Also in November 2007, at the seventeenth Ibero-American Summit of Heads of State and Government in Santiago, President Morales proposed that the United Nations should hold a world conference on indigenous peoples. As a result, in 2010, the General Assembly agreed to organize the World Conference on Indigenous Peoples in 2014. Similarly, the Government of the Plurinational State of Bolivia has facilitated the participation of leaders and indigenous peoples' organizations in meetings of the Permanent Forum and the Expert Mechanism on the Rights of Indigenous Peoples. Through the various ministries, the executive branch has endorsed the Declaration and ILO Convention No. 169 in publications and at workshops. With support from the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, the Declaration has been translated into Aymara, Spanish, Quechua and Guaraní.

VII. Specific laws and/or policies that address indigenous peoples' issues

48. It is not possible to list all the United States laws and policies pertaining to indigenous peoples. However, some of the landmark laws and policies include the following:

- President Nixon's 1973 message to Congress on Indian self-determination
- The 1974 Indian Self-Determination and Education Assistance Act and its many innovative amendments, including self-governance provisions
- The 1990 Native American Graves Protection and Repatriation Act
- President Clinton's 1996 Executive Order 13007 on Indian sacred sites
- President Clinton's 2000 Executive Order 13175 on consultation and coordination with Indian tribal governments
- The 2010 permanent authorization of the Indian Health Care Improvement Act
- The 2010 Tribal Law and Order Act

49. In Ecuador, there are several laws that may affect indigenous peoples, including the Water Law, the Land and Mining Law, the Intercultural Bilingual Education Law and the Food Security Law. Burkina Faso and the Niger do not have laws or policies specifically designed for indigenous peoples. As previously stated, El Salvador has implemented specific actions in relation to indigenous peoples, including an agreement signed in July 2010 between the Secretary of Social Inclusion and the National Registry, the Corporation of Municipalities of the Republic of El Salvador and the Attorney General's Office, which grants indigenous peoples the right to be registered as indigenous peoples and regain their indigenous names, a practice which had been repressed since 1932.

50. In Peru, there are many laws that recognize the importance of safeguarding the rights of indigenous peoples. It is not possible to list them all but they may be found in the report by Peru. These laws include the following:

- Decree of Native Communities and Agrarian Development of the Selva and Ceja de Selva (1978)
- Regulations of the Law on the Protection of Indigenous Peoples in Isolation (2006)
- Act on Protecting Access to Peruvian Biological Diversity and Collective Indigenous Knowledge (2004)
- Law Establishing a Protection Regime for the Collective Knowledge of Indigenous Peoples Derived from Biological Resources (2002)
- Law on Private Investment in the Development of Economic Activities on National Territory and the Lands of Rural and Native Communities (1995)

51. The Plurinational State of Bolivia adopted five key laws in 2010 to strengthen the structure of the State and consolidate and expand the rights of indigenous peoples. These include:

- Act No. 027 of the Plurinational Constitutional Court
- Act No. 025 of the Judiciary
- Act No. 026 regulating the electoral regime
- Act No. 018 regulating the Plurinational Electoral Body
- Law No. 031, Framework Law on Autonomy and Decentralization

52. In Chile, there are many laws that recognize the importance of safeguarding the rights of indigenous peoples. It is not possible to list them all but they may be found in the report by Chile. These laws include:

- Supreme Decree No. 101 of the Ministry of Planning, establishing the Council of Ministers for Indigenous Affairs, July 2010
- Decree No. 97 of the General Secretariat of the Office of the President, appointing the Minister for the Coordination of Indigenous Affairs, September 2009
- Decree No. 236 of the Ministry of Foreign Affairs, promulgating International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, October 2008
- Decree No. 338 of the Ministry of Foreign Affairs, promulgating the support programme for the management of the National Indigenous Development Corporation, February 2005
- Decree No. 224 of the Ministry of Planning, declaring the "Alto Andino Arica-Parinacota zone" an indigenous development area, March 2005
- Act No. 19.253 (Indigenous Act) providing for regulations on the protection, promotion and development of indigenous peoples and the establishment of the National Indigenous Development Corporation, October 1993

VIII. National institutions (ministries, departments, ombudsmen) for indigenous peoples' issues

53. Historically, the United States Congress has given the Secretary of the Interior broad authority over Indian affairs, as reflected in Acts of Congress and often codified in Title 25 of the United States Code. In recent years, specialized authority has also been given to other parts of the executive branch of the federal Government, whose responsibilities are typically exercised in consultation with the United States Secretary of the Interior. Day-to-day operations of Indian affairs at the United States Department of the Interior are conducted by the Assistant Secretary for Indian Affairs and the United States Secretary of the Interior, which are Presidentially appointed and Senate-confirmed positions. The Obama Administration appointed a Senior Policy Adviser for Native American Affairs within the White House Domestic Policy Council. The official in that position coordinates issues within the White House and across the entire executive branch of the United States Government. The position is currently filled by Kimberly Teehee.

54. In Peru, the responsibility for indigenous peoples' issues falls under the Ministry of Culture, in particular the Vice-Ministry of Intercultural Affairs, which proposes mechanisms and develops policies that prevent the exclusion or discrimination of indigenous peoples in accordance with ILO Convention No. 169 and the Declaration. Other State structures have dedicated units that work on indigenous peoples' issues, including the Directorate of Intercultural, Bilingual and Rural Education, in the Ministry of Education; the Rural Development Division of the Ministry of Agriculture; the Ministry of Health; the Ministry of Energy and Mines; the Ministry of the Environment; the Ministry of Labour; the National Institute for the Defence of Competition and the Protection of Intellectual Property; the Council of Ministers; the Ombudsman; the Ministry of Foreign Affairs; the Ministry of Women and Social Development; and the Commission of the Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology. Further details on these ministries may be found in the report by Peru.

55. In El Salvador, three institutions are responsible for indigenous peoples, namely the Secretariat for Social Inclusion, the Secretariat for Culture (President's Office) and the Ministry of Foreign Affairs. In Burkina Faso, the Ministry for the Promotion of Human Rights is the State organization responsible for implementing national policy on the promotion and protection of human rights for all peoples in the country, including those who consider themselves indigenous peoples. In Ecuador, the Secretariat for Peoples, Social Movements and Citizen Participation is responsible for indigenous peoples' issues and is based in the Department of Peoples and Interculturalism.

56. In Chile, the main institution responsible for implementing indigenous peoples' policies is the National Indigenous Development Corporation, which was established pursuant to the Indigenous Act (1993), under the Ministry of Planning. The overall coordination of indigenous policy is conducted by the General Secretariat of the President's Office, which is responsible for developing the legislative agenda for the Government. There is also an effort to mainstream indigenous policies through the establishment of indigenous affairs units in all ministries and in the police department. In June 2010, the Council of Ministers for Indigenous Affairs was established; the Council advises the President on the design

and coordination of public policies for indigenous peoples. Further details may be found in the report by Chile.

IX. Formal or ad hoc capacity-building programmes on indigenous peoples' issues for civil servants

57. A number of countries provided information on training programmes on indigenous peoples' issues for Government officials. In the United States, there are many federal Government agencies that have training courses for federal officials on federal Indian law and policy. One inter-agency example is a course developed during the previous administration entitled "Working effectively with tribal Governments".[10] The Government of Ecuador reported that it had signed agreements with universities to train public officials in indigenous peoples' issues. In El Salvador, the Ministry of Social Inclusion conducts workshops for civil servants on indigenous peoples' issues. There have also been a number of training activities in Chile for Governments and municipalities on indigenous peoples' issues as well as workshops for unit managers and regional ministries on indigenous affairs, to review and advance the inclusion of indigenous peoples in public policies and programmes. Further details may be found in the report provided by the Government of Chile. In Peru, the National Institute for the Development of Andean, Amazonian and Afro-Peruvian Peoples has agreements with universities on training Government officials in public policies and interculturalism. Workshops have also been held with school officials to advance the values of equal opportunity and tolerance, in order to eliminate the stigma and prejudice against indigenous peoples in Peru.

X. Promotion and/or implementation of the United Nations Declaration on the Rights of Indigenous Peoples

58. The document entitled "Announcement of United States support for the United Nations Declaration on the Rights of Indigenous Peoples: initiatives to promote the Government-to-Government relationship and improve the lives of indigenous peoples" explains the support of the United States for the Declaration.[11] In Ecuador, the Constitution welcomes the Declaration and ILO Convention No. 169 as well as other laws on civil and indigenous justice systems. Objective 8 of the "National plan of living well" is aimed at indigenous peoples and other nationalities as well as *sumak kawsay*.

59. Burkina Faso supported the adoption of the Declaration in the General Assembly in 2007. Its attendance at the Permanent Forum for the first time in 2010 demonstrates its stated desire to learn more about the rights of indigenous peoples. The Government of El Salvador voted in favour of the Declaration in the General Assembly in 2007, which clearly demonstrates that there is a will on the part of the Government to recognize the rights of indigenous peoples. The Ministry of Social Inclusion, in conjunction with the regional office of the United Nations High Commissioner for Human Rights, is scheduled to hold a forum to promote the

[10] See http://tribal.golearnportal.org/.

[11] See http://www.state.gov/documents/organization/153223.pdf.

Declaration in early 2011, with the participation of the Special Rapporteur on the rights of indigenous peoples via teleconference. In the Plurinational State of Bolivia, the Declaration became part of the legal structure of the State in 2007 and was included in the new Constitution enacted in February 2009.

60. In Peru, one of the functions of the Vice-Ministry of Intercultural Affairs within the Ministry of Culture is to promote and guarantee social equality and respect for the rights of the indigenous peoples of the country, in accordance with ILO Convention No. 169 and the Declaration. In addition, the Commission of Andean, Amazonian and Afro-Peruvian Peoples, Environment and Ecology has been promoting initiatives to ensure full implementation of the Declaration.

61. The Government of Chile supported the adoption of the Declaration at the sixty-first session of the General Assembly in September 2007. Since 2009, it has been developing a joint project with the United Nations system on strengthening national capacities for the prevention and management of intercultural conflict in Chile, 2009-2011, which is based on the Declaration. The project involves all United Nations agencies, including ILO, which collaborates with the Government of Chile on the implementation of ILO Convention No. 169. As part of its efforts to promote international rights for indigenous peoples, Chile has been implementing and disseminating that Convention.